

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DAVID VALERO,

Plaintiff,

-against-

THE NATIONAL FLOOD INSURANCE
PROGRAM,

Defendant.

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Appearances:

For Plaintiff:
SCOTT G. HUNZIKER
The Voss Law Center
26619 Interstate 45
The Woodlands, Texas 77380

BLOCK, Senior District Judge:

On July 13, 2016, Magistrate Judge Cheryl L. Pollak (“MJ”) issued a Report and Recommendation (“R&R”) recommending that this case be dismissed because of plaintiff’s failure to prosecute this matter, pursuant to Federal Rule of Civil Procedure 41 (“Rule 41”), unless plaintiff contacted the Court within fourteen days. *See* R&R at 4. The R&R also provided that failure to object within fourteen days of its receipt would preclude appellate review. *Id.* A copy of the R&R was mailed to plaintiff and his counsel of record on July 13, 2016. To date, no objections have been filed, and ninety-six days have passed.

Where clear notice has been given of the consequences of failure to object, and

there are no objections, the Court may adopt the R&R without de novo review. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). This Court, however, will excuse the failure to object and conduct de novo review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

The R&R contains no error, plain or otherwise. Accordingly, the Court adopts the R&R without de novo review and directs the Clerk to dismiss the complaint for plaintiff’s failure to prosecute.

SO ORDERED

/s/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
October 24, 2016